



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-1026/P2 P3

TKK:eev:jf

insert  
BMR

DOA:.....Hynek, BB0324 - New Parental Choice Program

**FOR 2013-2015 BUDGET — NOT READY FOR INTRODUCTION**

8/16

2/8/13

Don't Gen

1 AN ACT ...; relating to: the budget.

The bill provides that only after an eligible school district becomes a qualifying eligible school district may pupils who reside in that school district attend a private school under the parental choice program.

*Analysis by the Legislative Reference Bureau*  
**EDUCATION**

**PRIMARY AND SECONDARY EDUCATION**

Under current law, a pupil living in the city of Milwaukee or an eligible school district (currently, only the Racine Unified School District) may, under a parental choice program, attend a private school at state expense if, among other conditions, the pupil is a member of a family that has a total family income that does not exceed 300 percent of the poverty level.

This bill expands the parental choice program for eligible school districts by making eligible a school district having at least 4,000 pupils and in which two or more schools in the district have received a grade of "fails to meet expectations" or "meets few expectations," or the equivalent lowest grades (qualifying grades), on a report card issued by DPI. The bill does not, however, require a pupil who applies to attend a participating private school to be enrolled in a school that received a qualifying grade. If, at the time at which any subsequent report card is issued for schools in the district, no school or only one school in the district has received a qualifying grade and no pupil who resides in the district is attending a participating private school under the program, the school district ceases to be an eligible school district. However, a school district that has ceased to be an eligible school district may become an eligible school district in a subsequent school year.

Within 10 days after issuing school report cards, DPI must publish a list of eligible school districts on its Internet site, and must provide a written notice to the

If, after a school district has been identified as an eligible school district, at least 20 pupils apply to attend private schools under the parental choice program, the eligible school district becomes a qualifying eligible school district.

accountability  
clerk of each eligible school district. A private school must notify DPI by August 1 immediately following the issuance of the report card of its intent to participate in the choice program in a newly eligible school district in that school year. In the 2013–14 school year, participation in the expanded choice program is limited to no more than 500 pupils residing in eligible school districts. In the 2014–15 school year, participation is capped at no more than 1,000 pupils.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 118.60 (1) (am) (intro.) of the statutes is amended to read:

2           118.60 (1) (am) (intro.) “Eligible school district” means a school district that,  
3 subject to sub. (1m), satisfies all any of the following:

4           **SECTION 2.** 118.60 (1) (am) 1. of the statutes is renumbered 118.60 (1) (am) 1g.

5           a.

6           **SECTION 3.** 118.60 (1) (am) 1g. (intro.) of the statutes is created to read:

7           118.60 (1) (am) 1g. (intro.) Subject to sub. (1m) (a), the school district satisfies  
8 all of the following:

9           **SECTION 4.** 118.60 (1) (am) 1r. of the statutes is created to read:

10          118.60 (1) (am) 1r. The school district satisfies all of the following:

11          a. The number of pupils enrolled in the school district equals or exceeds 4,000.

12          In this subd. 1r. a., the number of pupils means the number of pupils as counted  
13 under s. 121.004 (7).

14          b. Subject to sub. (1m) (b) 2., <sup>2</sup>two or more public schools in the school district

15          <sup>were placed</sup> receive in the same school year <sup>in a performance category</sup> a grade of either “fails to meet expectations” or “meets

16          few expectations,” or the equivalent lowest <sup>grades</sup> grades on <sup>an accountability</sup> a report card issued by the

17          department.

under s. 115.385(1)

performance  
categories

ce \*\*\*NOTE: Is it possible or likely that DPI will prepare more than one report card in any school year?

If so, I recommend specifying that only the report card issued at the end of the school year may be used for the purpose of disqualifying the school district under subd. 1r. b.

1       **SECTION 5.** 118.60 (1) (am) 2. of the statutes is renumbered 118.60 (1) (am) 1g.

2       b.

3       **SECTION 6.** 118.60 (1) (am) 3. of the statutes is renumbered 118.60 (1) (am) 1g.

4       c.

5       **SECTION 7.** 118.60 (1) (am) 4. of the statutes is renumbered 118.60 (1) (am) 1g.

6       d.

7       **SECTION 8.** 118.60 (1m) of the statutes is renumbered 118.60 (1m) (a) and  
8 amended to read:

9       118.60 (1m) (a) By For an eligible school district under sub. (1) (am) 1g., by  
10 November 15 of the 2nd fiscal year of each fiscal biennium, the department shall  
11 prepare a list that identifies eligible school districts. The department shall post the  
12 list on the department's Internet site and shall notify in writing the school district  
13 clerk of each eligible school district. A school district that has qualified as an eligible  
14 school district under ~~this section~~ sub. (1) (am) 1g. on April 20, 2012, shall remain an  
15 eligible school district, but no school district may qualify as an eligible school district  
16 under sub. (1) (am) 1g. after April 20, 2012.

17       **SECTION 9.** 118.60 (1m) (b) of the statutes is created to read:

18       118.60 (1m) (b) 1. Subject to subd. 2., for an eligible school district under sub.

19       (1) (am) 1r., within 10 days after the department issues a report card with a grade  
20 of "fails to meet expectations" or "meets few expectations," or the equivalent lowest

21 grades, for at least two schools in a school district, the department shall publish a

22 notice on the department's Internet site that identifies that school district as an

Insert 3-19

Insert 4-3

- 1 eligible school district for the immediately following school year, and shall notify in  
 2 writing the school district clerk of the eligible school district.

\*\*\*\*NOTE: Is it possible or likely that DPI will prepare more than one report card in any school year?

If so, I recommend specifying that only the report card issued at the end of the school year may be used for the purpose of identifying the school district as an eligible school district.

- 3 2. A school district identified as an eligible school district under subd. 1. ceases  
 4 to be an eligible school district if, at the time at which any subsequent <sup>accountability reports</sup> report cards  
 5 are <sup>published</sup> issued by the department, no school or only one school in the school district  
 6 <sup>is placed in a performance category</sup> receives a grade of "fails to meet expectations" or "meets few expectations," or the  
 7 equivalent lowest <sup>performance categories</sup> grades, and no pupil <sup>who resides</sup> in the school district is attending a  
 8 participating private school under this section. The department shall, within 10  
 9 days after the department <sup>publishes</sup> issues the subsequent <sup>accountability reports</sup> report cards, remove <sup>the school</sup>  
 10 district from the list of eligible school districts on the department's Internet site <sup>and</sup>  
 11 shall notify in writing the school district clerk of the change in eligibility status. This  
 12 subdivision does not preclude a school district from becoming an eligible school  
 13 district under sub. (1) (am) 1r. in a subsequent school year.

14 SECTION 10. 118.60 (2) (a) (intro.) of the statutes is amended to read:

15 118.60 (2) (a) (intro.) Subject to par. <sup>(b)</sup> ~~par.~~ <sup>(b) and (bm)</sup> ~~(b)~~ and (bm), any pupil in grades  
 16 kindergarten to 12 who resides within an eligible school district may attend any  
 17 private school if all of the following apply:

18 SECTION 11. 118.60 (2) (a) 3. a. of the statutes is amended to read:

19 118.60 (2) (a) 3. a. Except as provided in ~~subd.~~ <sup>subds.</sup> 3. b. and 3. c., the private  
 20 school notified the state superintendent of its intent to participate in the program  
 21 under this section, and paid the nonrefundable fee set by the department as required  
 22 under s. 119.23 (2) (a) 3., by February 1 of the previous school year. The notice shall

any school district that no longer satisfies the requirement under subd. (1)(am) 1r. b. if no pupil who resides in the school district is attending a participating private school under this section. The department

Insert 4-14

1 specify the number of pupils participating in the program under this section for  
2 which the school has space.

3 **SECTION 12.** 118.60 (2) (a) 3. c. of the statutes is created to read:

4 118.60 (2) (a) 3. c. <sup>participating private school for a</sup> For a private school that is a first-time participant in the  
5 program under this section <sup>and that intends to participate in the program under this</sup>  
6 section <sup>and to accept pupils who reside within a school district</sup> in the first school year in which <sup>that</sup> a school district <sup>is</sup> identified as an eligible  
7 school district under sub. (1m) (b) <sup>is an eligible school district</sup> the private school  
8 notified the state superintendent of its intent to participate in the program under  
9 this section, and paid the nonrefundable fee set by the department as required under  
10 s. 119.23 (2) (a) 3., by August 1 of the school year in which the private school <sup>first</sup>  
11 intends to participate. The notice shall specify the number of pupils participating  
12 in the program under this section for which the school has space.

le  
\*\*\*NOTE: I am attempting an anticipatory reconciliation between this draft and 2013 LRB-1027 (choice schools in multiple programs). Other changes will have to be made to this new subdivision paragraph and to s. 118.60 (2) (a) 7. and, possibly, s. 119.23 (2) (a) 7. b. when the budget is compiled, but this will facilitate that process. The purpose of this subdivision paragraph is to permit new schools that are not already participating in the Racine or Milwaukee choice programs to participate in a newly identified eligible school district in the fall immediately following the identification of that school district. Because of the February 1 date for notification under s. 118.60 (2) (a) 3. a. (and s. 119.23 (2) (a) 3.), without this subdivision paragraph, schools that were not already participating would be precluded from participating until the next school year. Let me know if you are comfortable with this approach.

13 **SECTION 13.** 118.60 (2) (a) 6. c. of the statutes is amended to read:

14 118.60 (2) (a) 6. c. Any teacher employed by the private school on July 1 of the  
15 first school year that begins after a school district is identified as an eligible school  
16 district under sub. (1m) (b) <sup>to and qualifies as an eligible school district under par 10</sup> or 2011 Wisconsin Act 32, section 9137 (3u), <sup>who has been</sup> <sup>(b)</sup>  
17 teaching for at least the 5 consecutive years immediately preceding that July 1, and  
18 who does not satisfy the requirements under subd. 6. a. on that July 1, applies to the  
19 department on a form prepared by the department for a temporary, nonrenewable

waiver from the requirements under subd. 6. a. The department shall promulgate rules to implement this subd. 6. c., including the form of the application and the process by which the waiver application will be reviewed. The application form shall require the applicant to submit a plan for satisfying the requirements under subd. 6. a., including the name of the accredited institution of higher education at which the teacher is pursuing or will pursue the bachelor's degree and the anticipated date on which the teacher expects to complete the bachelor's degree. No waiver granted under this subd. 6. c. is valid after July 31 of the 5th school year that begins after a school district is <sup>both</sup> identified as an eligible school district under sub. (1m)(b) of 2011 <sup>of 2011</sup> <sup>new plan</sup>

Wisconsin Act 32, section 9137 (3u).

**SECTION 14.** 118.60 (2) (a) 7. of the statutes is amended to read:

118.60 (2) (a) 7. For a private school that is a first-time participant in the program under this section, and that is not accredited by Wisconsin North Central Association, Wisconsin Religious and Independent School Accreditation, Independent Schools Association of the Central States, Wisconsin Evangelical Lutheran Synod School Accreditation, National Lutheran School Accreditation, the diocese or archdiocese within which the private school is located, or by any other organization recognized by the National Council for Private Schools Accreditation, the private school obtains preaccreditation by the Institute for the Transformation of Learning at Marquette University, Wisconsin North Central Association, Wisconsin Religious and Independent Schools Accreditation, Independent Schools Association of the Central States, Wisconsin Evangelical Lutheran Synod School Accreditation, National Lutheran School Accreditation, or the diocese or archdiocese within which the private school is located by September 1 before the first school term of participation in the program under this section that begins after August 31, 2011;

*lo and qualifies as an eligible school district under para (b) for is identified as an eligible school district under*

1 by August 15 before the first school term of participation in the program under this  
2 section that begins in the first school year that begins after a school district is  
3 identified as an eligible school district under sub. (1m); or by May 1 if the private  
4 school begins participation in the program under this section during summer school.

5 In any school year, a private school may apply for and seek to obtain preaccreditation  
6 from only one of the entities enumerated in this subdivision. A private school that  
7 fails to obtain ~~accreditation~~ <sup>↓</sup> preaccreditation in a school year may apply for and seek to obtain

8 preaccreditation from one of the entities enumerated in this subdivision in the  
9 following school year. The private school shall achieve accreditation by Wisconsin  
10 North Central Association, Wisconsin Religious and Independent Schools  
11 Accreditation, Independent Schools Association of the Central States, Wisconsin  
12 Evangelical Lutheran Synod School Accreditation, National Lutheran School  
13 Accreditation, the diocese or archdiocese within which the private school is located,  
14 or any other organization recognized by the National Council for Private School  
15 Accreditation, by December 31 of the 3rd school year following the first school year  
16 in which the private school begins participation in the program under this section.  
17 If the private school is accredited under this subdivision, the private school is not  
18 required to obtain preaccreditation as a prerequisite to providing instruction under  
19 this section in additional grades or in an additional or new school.

change component  
SECTION 15. 118.60 (2) (b) 1. of the statutes is amended to read: <sup>repealed</sup>

21 118.60 (2) (b) 1. In the first school year that begins after a school district is  
22 identified as an eligible school district under sub. (1m) or 2011 Wisconsin Act 32,  
23 section 9137 (3u), no more than 250 pupils, as counted under s. 121.004 (7), may  
24 attend private schools under this section. Priority Participating private schools shall  
25 ~~be given~~ give priority to pupils who were eligible for a free or reduced-price lunch in

Insert 8-1

1 the federal school lunch program under 42 USC 1758 (b) in the immediately  
2 preceding school year.

3 SECTION 16. 118.60 (2) (b) 2. of the statutes is amended to read:

4 118.60 (2) (b) 2. In the 2nd school year that begins after a school district is  
5 identified as an eligible school district under sub. (1m) or 2011 Wisconsin Act 32,  
6 section 9137 (3u), no more than 500 pupils, as counted under s. 121.004 (7), may  
7 attend private schools under this section. Priority Participating private schools shall  
8 ~~be given~~ give priority to pupils who attended a private school under this section in  
9 the immediately preceding school year.

10 SECTION 17. 118.60 (2) (bm) of the statutes is created to read:

(11) 118.60 (2) (bm) <sup>(br)</sup> 1. In the 2013-14 school year, no more than <sup>a total of</sup> 500 pupils residing  
(12) in <sup>a</sup> school district <sup>s</sup> identified as <sup>a</sup> eligible school district <sup>s</sup> under sub. (1m) (b) may  
13 attend private schools under this section. In this paragraph, the number of pupils  
14 means the number of pupils as counted under s. 121.004 (7). Participating private  
15 schools shall give priority to pupils who were eligible for a free or reduced-price lunch  
16 in the federal school lunch program under 42 USC 1758 (b) in the immediately  
17 preceding school year.

a total of

18 2. In the 2014-15 school year, no more than <sup>a total of</sup> 1,000 pupils residing in <sup>a</sup> school  
(19) district <sup>s</sup> identified as <sup>a</sup> eligible school district <sup>s</sup> under sub. (1m) (b) may attend private  
20 schools under this section. Participating private schools shall give priority to pupils  
21 who attended a private school under subd. 1.

22 3. Whenever the state superintendent determines that the limit is reached  
23 under subd. 1. or 2., he or she shall issue an order prohibiting the participating  
24 private schools from accepting additional pupils from <sup>a</sup> school district <sup>s</sup> identified  
(25) as <sup>a</sup> eligible school district <sup>s</sup> under sub. (1m) (b) until he or she determines that the

10 and qualifying as eligible school  
districts under par. (b) (3)

(3)



1 number of pupils attending private schools under this section from those school  
2 districts has fallen below the limit. If the number of pupils attending private schools  
3 under this section falls below the limit under this paragraph, the state  
4 superintendent shall issue an order notifying participating private schools that they  
5 may begin accepting additional pupils from those school districts, and,  
6 notwithstanding sub. (3) (a), participating private schools that wish to accept  
7 additional pupils under this section shall accept pupils as follows:

8 a. The private school shall give first priority to pupils in a school district  
9 identified as an eligible school district under sub. (1m) (b) (who are attending a  
10 private school under this section. *to and qualifying as an eligible school district under sub. (2)(b) ✓*

11 b. The private school shall give 2nd priority to the siblings of pupils who are  
12 attending a private school under this section from that school district.

13 c. The private school shall give 3rd priority to pupils selected at random under  
14 a procedure established by the department by rule.

15 **SECTION 18.** 118.60 (3) (a) of the statutes is amended to read:

16 118.60 (3) (a) The pupil or the pupil's parent or guardian shall submit an  
17 application, on a form provided by the state superintendent, to the participating  
18 private school that the pupil wishes to attend. If more than one pupil from the same  
19 family applies to attend the same private school, the pupils may use a single  
20 application. Within 60 days after receiving the application, the private school shall  
21 notify each applicant, in writing, whether his or her application has been accepted,  
22 except that for a private school that is a first-time participant in the program under  
23 this section in the first school year in which a school district identified as an eligible  
24 school district under sub. (1m) (b) is an eligible school district, the private school shall  
25 notify each applicant, in writing, whether his or her application has been accepted

1 within 15 days after receiving the application. If the private school rejects an  
2 application, the notice shall include the reason. A private school may reject an  
3 applicant only if it has reached its maximum general capacity or seating capacity.  
4 The state superintendent shall ensure that the private school determines which  
5 pupils to accept on a random basis, except that the private school may give preference  
6 in accepting applications to siblings of pupils accepted on a random basis.

7 **SECTION 19.** 121.08 (4) (br) of the statutes is amended to read:

8 121.08 (4) (br) The amount of state aid that an eligible school district is eligible  
9 to be paid from the appropriation under s. 20.255 (2) (ac) shall also be reduced by the  
10 amount calculated by multiplying the amounts paid under s. 118.60 (4) and (4m) in  
11 the first school year that begins after a school district is identified as an eligible  
12 school district under s. 118.60 (1m) (b) or 2011 Wisconsin Act 32, section 9137 (3u),  
13 and in each school year thereafter by 38.4 percent.

14 (END)

~~Insert 10-14~~

10 and qualifies as an eligible school district  
under s. 118.60 (2) (bg)

**2013-2014 DRAFTING INSERT**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1026/P2ins  
TKK:eev:jf

**INSERT 3-19**

publishes, for at least two schools in a school district, accountability reports under s. 115.385 (1) that place the schools in a performance category of "fails to meet expectations" or "meets few expectations," or the equivalent lowest performance categories

**INSERT 4-3**

\*\*\*NOTE: This subdivision now incorporates a cross-reference to the school and school district accountability reports required under s. 115.385, as created in LRB-1158. Because s. 115.385 does not refer to "report cards" or "grades," I have replaced these terms in this subdivision with "accountability reports" and "performance categories," respectively.

**INSERT 4-14**

\*\*\*NOTE: This subdivision describes how a school district that is an eligible school district in one school year can become an ineligible school district in a subsequent school year. Under LRB-1026/P2, a school would cease to be eligible if, at the time of a subsequent accountability report (report card in the /P2), two conditions were satisfied: 1) no school or only one school was placed in a performance category of fails to or meets few expectations, and 2) no pupil who resided in the school district was attending a private school under the program.

~~\*\*\*NOTE:~~ Now that there is a distinction between an "eligible school district" and a "qualifying eligible school district," I was not sure how to draft the second condition for ineligibility. Should the condition continue to be that no single pupil who resides in that school district is attending a private school under the program (for whatever reason)? Or should the condition be that an insufficient number of pupils who reside in the school district (that is, less than 20) applied to attend a private school under the choice program immediately following the school year in which the school district was first identified as an eligible school district? Or did you have a different condition in mind? For this draft, I retained the language from the /P2 version. Let me know how you would like me to proceed.

**INSERT 8-1**

\*\*\*NOTE: Because the cap for the Racine program only extends to the end of the 2012-13 school year, I repeal the cap for the Racine program effective July 1, 2013. Okay?

**SECTION 1.** 118.60 (2) (bg) of the statutes is created to read:

118.60 (2) (bg) 1. No pupil who resides in a school district identified as an eligible school district under sub. (1m) (b) 1. may attend a private school under this section until that school district qualifies as an eligible school district under this paragraph. A school district qualifies as an eligible school district under this

✓  
1 paragraph if no later than August 15 immediately following the date on which the  
2 department ✓ identified the school district as an eligible school district under sub. (1m) ✓  
3 (b) 1., at least 20 pupils who reside in the school district apply to attend a private  
4 school under this section ✓ and simultaneously notify the department ✓ that they have  
5 applied to attend a private school under this section. ✓ Pupils applying to attend a  
6 private school that is a first-time participant in the program under this section ✓ and  
7 that has not obtained preaccreditation as required under par. (a) 7. may not be  
8 counted towards the 20 pupils required for an eligible school district to qualify as an  
9 eligible school district under this section. ✓

\*\*\*\*NOTE: Do you want to condition "qualifying" status on at least 20 pupils being  
accepted into a private school? Or on at least 20 pupils actually attending a private  
school? That is, what if just 20 pupils apply but only 4 are accepted? Or what if 20 pupils  
apply but only one elects to attend the private school? Will the school districts within  
which these pupils reside qualify as an eligible school district under this subdivision?

✓  
10 2. The department shall, no later than 5 days after receiving notice from private  
11 schools regarding acceptance of pupils as required under sub. (3) (a), determine ✓  
12 whether any school district identified as an eligible school district under sub. (1m)  
13 (b) 1. qualifies as an eligible school district under this paragraph, and shall publish ✓  
14 on the department's internet (web) site a list of any such qualifying eligible school  
15 districts.

INSERT 9-15

✓  
16 **SECTION 2.** 118.60 (3) (a) of the statutes is amended to read:

17 118.60 (3) (a) The pupil or the pupil's parent or guardian shall submit an  
18 application, on a form provided by the state superintendent, to the participating  
19 private school that the pupil wishes to attend. If more than one pupil from the same  
20 family applies to attend the same private school, the pupils may use a single  
21 application. Within 60 days after receiving the application, the private school shall

1 notify each applicant, in writing, whether his or her application has been accepted,  
2 except that in the first school year in which a school district is identified as an eligible  
3 school district under sub. (1m) (b) 1., a private school that has notified the  
4 department of its intent to participate in the program under this section as required  
5 under sub. (2) (a) 3. c. shall notify each applicant, in writing, whether his or her  
6 application has been accepted within 7 days after receiving the application, and shall  
7 simultaneously notify the department whether the pupil has been accepted. If the  
8 private school rejects an application, the notice shall include the reason. A private  
9 school may reject an applicant only if it has reached its maximum general capacity  
10 or seating capacity. The state superintendent shall ensure that the private school  
11 determines which pupils to accept on a random basis, except that the private school  
12 may give preference in accepting applications to siblings of pupils accepted on a  
13 random basis.

**History:** 2011 a. 32, 47, 215; s. 35.17 correction in (4) (d) (intro.).

**History:** s section. The department may not by rule establish standards under sub. (7) (am) that exceed the standards established by the American Institute of Certified Public Accountants.

**INSERT 10-14**

**SECTION 9434. Effective dates; Public Instruction.**

14  
15 (1) REPEAL OF PUPIL ATTENDANCE CAP UNDER THE PARENTAL CHOICE PROGRAM FOR  
16 THE RACINE UNIFIED SCHOOL DISTRICT. The treatment of section 118.60 (2) (b) of the  
17 statutes takes effect on July 1, 2013.

18 Insert 3-19  
19

## Kuczenski, Tracy

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**From:** Hynek, Sara - DOA <Sara.Hynek@Wisconsin.gov>  
**Sent:** Sunday, February 10, 2013 2:15 PM  
**To:** Kuczenski, Tracy  
**Subject:** LRB 1026, new choice program

Tracy, regarding some of your drafter's notes on this one:

Both notes on page 4 are ok.

Re: your page 5 note – The condition is that an insufficient number of pupils (>20) applied to attend a choice school. This would be different than P2.

Page 8 – yes, ok to repeal the Racine cap.

Page 8, second note – I think the qualifying status is conditioned on 20 pupils applying. It wouldn't matter how many actually attend, only how many notify DPI that they have applied to a choice school.

Hope that's helpful!

Sara Hynek  
Team Leader, Education and Workforce Development Team  
State Budget Office  
Wisconsin Department of Administration  
608-266-1037



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-1026/P8 P4

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DOA:.....Hynek, BB0324 - New Parental Choice Program

**FOR 2013-2015 BUDGET — NOT READY FOR INTRODUCTION**

2/10/13

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do NOT gen

1 **AN ACT ...; relating to:** the budget.

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*Analysis by the Legislative Reference Bureau*

**EDUCATION**

**PRIMARY AND SECONDARY EDUCATION**

Under current law, a pupil living in the city of Milwaukee or an eligible school district (currently, only the Racine Unified School District) may, under a parental choice program, attend a private school at state expense if, among other conditions, the pupil is a member of a family that has a total family income that does not exceed 300 percent of the poverty level.

This bill expands the parental choice program for eligible school districts by making eligible a school district having at least 4,000 pupils and in which two or more schools in the district have been placed in a performance category of "fails to meet expectations" or "meets few expectations," or the equivalent lowest performance categories (qualifying categories), on an accountability report published by DPI. If, after a school district has been identified as an eligible school district, at least 20 pupils who reside in the school district apply to attend private schools under the parental choice program, the eligible school district becomes a qualifying eligible school district. The bill provides that only after an eligible school district becomes a qualifying eligible school district may pupils who reside in that school district attend a private school under the parental choice program. The bill does not, however, require a pupil who applies to attend a participating private school to be enrolled in a school that was placed in a qualifying category.

the school district did not become a qualifying eligible  
school district

If, at the time at which any subsequent accountability report is published for schools in the district, no school or only one school in the district was placed in a qualifying category and no pupil who resides in the district is attending a participating private school under the program, the school district ceases to be an eligible school district. However, a school district that has ceased to be an eligible school district may become an eligible school district in a subsequent school year.

Within ten days after publishing accountability reports, DPI must publish a list of eligible school districts on its Internet site, and must provide a written notice to the clerk of each eligible school district. A private school must notify DPI by August 1 immediately following the issuance of the accountability reports of its intent to participate in the choice program in a newly eligible school district in that school year. In the 2013-14 school year, participation in the expanded choice program is limited to no more than 500 pupils residing in eligible school districts. In the 2014-15 school year, participation is capped at no more than 1,000 pupils.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

- Insert  
2-1*
- 1           **SECTION 1.** 118.60 (1) (am) (intro.) of the statutes is amended to read:
- 2           118.60 (1) (am) (intro.) "Eligible school district" means a school district that,
- 3           subject to sub. (1m), satisfies all any of the following:
- 4           **SECTION 2.** 118.60 (1) (am) 1. of the statutes is renumbered 118.60 (1) (am) 1g.
- 5           a.
- 6           **SECTION 3.** 118.60 (1) (am) 1g. (intro.) of the statutes is created to read:
- 7           118.60 (1) (am) 1g. (intro.) Subject to sub. (1m) (a), the school district satisfies
- 8           all of the following:
- 9           **SECTION 4.** 118.60 (1) (am) 1r. of the statutes is created to read:
- 10          118.60 (1) (am) 1r. The school district satisfies all of the following:
- 11          a. The number of pupils enrolled in the school district equals or exceeds 4,000.
- 12          In this subd. 1r. a., the number of pupils means the number of pupils as counted
- 13          under s. 121.004 (7).



1           b. Subject to sub. (1m) (b) 2., 2 or more public schools in the school district were  
2 placed in the same school year in a performance category of either “fails to meet  
3 expectations” or “meets few expectations,” or the equivalent lowest performance  
4 categories, on an accountability report issued by the department under s. 115.385 (1).

5           **SECTION 5.** 118.60 (1) (am) 2. of the statutes is renumbered 118.60 (1) (am) 1g.

6           b.

7           **SECTION 6.** 118.60 (1) (am) 3. of the statutes is renumbered 118.60 (1) (am) 1g.

8           c.

9           **SECTION 7.** 118.60 (1) (am) 4. of the statutes is renumbered 118.60 (1) (am) 1g.

10          d.

11          **SECTION 8.** 118.60 (1m) of the statutes is renumbered 118.60 (1m) (a) and  
12 amended to read:

13           118.60 (1m) (a) By For an eligible school district under sub. (1) (am) 1g., by  
14 November 15 of the 2nd fiscal year of each fiscal biennium, the department shall  
15 prepare a list that identifies eligible school districts. The department shall post the  
16 list on the department’s Internet site and shall notify in writing the school district  
17 clerk of each eligible school district. A school district that has qualified as an eligible  
18 school district under ~~this section~~ sub. (1) (am) 1g. on April 20, 2012, shall remain an  
19 eligible school district, but no school district may qualify as an eligible school district  
20 under sub. (1) (am) 1g. after April 20, 2012.

21          **SECTION 9.** 118.60 (1m) (b) of the statutes is created to read:

22           118.60 (1m) (b) 1. Subject to subd. 2., for an eligible school district under sub.  
23 (1) (am) 1r., within 10 days after the department publishes, for at least 2 schools in  
24 a school district, accountability reports under s. 115.385 (1) that place the schools in  
25 a performance category of “fails to meet expectations” or “meets few expectations,”

1 or the equivalent lowest performance categories, the department shall publish a  
2 notice on the department's Internet site that identifies that school district as an  
3 eligible school district for the immediately following school year, and shall notify in  
4 writing the school district clerk of the eligible school district.

6  
\*\*\*\*NOTE: This subdivision now incorporates a cross-reference to the school and school district accountability reports required under s. 115.385, as created in LRB-1158. Because s. 115.385 does not refer to "report cards" or "grades," I have replaced these terms in this subdivision with "accountability reports" and "performance categories," respectively.

5 2. A school district identified as an eligible school district under subd. 1. ceases  
6 to be an eligible school district if, at the time at which any subsequent accountability  
7 reports are published by the department under s. 115.385 (1), no school or only one  
8 school in the school district is placed in a performance category of "fails to meet  
9 expectations" or "meets few expectations," or the equivalent lowest performance  
10 categories, and no pupil who resides in the school district is attending a participating  
11 private school under this section. The department shall, within 10 days after the  
12 department publishes the subsequent accountability reports, remove from the list of  
13 eligible school districts on the department's Internet site any school district that no  
14 longer satisfies the requirement under sub. (1) (am) 1r. b. if no pupil who resides in  
15 the school district is attending a participating private school under this section. The  
16 department shall notify in writing the school district clerk of the change in eligibility  
17 status. This subdivision does not preclude a school district from becoming an eligible  
18 school district under sub. (1) (am) 1r. in a subsequent school year.

6  
\*\*\*\*NOTE: This subdivision describes how a school district that is an eligible school district in one school year can become an ineligible school district in a subsequent school year. Under LRB-1026/P2, a school would cease to be eligible if, at the time of a subsequent accountability report (report card in the /P2), two conditions were satisfied: 1) no school or only one school was placed in a performance category of fails to or meets few expectations, and 2) no pupil who resided in the school district was attending a private school under the program.

the school district did not qualify as an eligible school district, as required under subd (2) (bq), in the last school year in which the school district satisfied the requirements under subd (1)

Please review this new language governing eligibility. Does it accomplish your intent?

6 \*\*\*NOTE: Now that there is a distinction between an "eligible school district" and a "qualifying eligible school district," I was not sure how to draft the second condition for ineligibility. Should the condition continue to be that no single pupil who resides in that school district is attending a private school under the program (for whatever reason)? Or should the condition be that an insufficient number of pupils who reside in the school district (that is, less than 20) applied to attend a private school under the choice program immediately following the school year in which the school district was first identified as an eligible school district? Or did you have a different condition in mind? For this draft, I retained the language from the /P2 version. Let me know how you would like me to proceed.

1 SECTION 10. 118.60 (2) (a) (intro.) of the statutes is amended to read:

2 118.60 (2) (a) (intro.) Subject to ~~par. (b)~~ pars. (bg) and (br), any pupil in grades  
3 kindergarten to 12 who resides within an eligible school district may attend any  
4 private school if all of the following apply:

5 SECTION 11. 118.60 (2) (a) 3. a. of the statutes is amended to read:

6 118.60 (2) (a) 3. a. Except as provided in ~~subd.~~ subds. 3. b. and 3. c., the private  
7 school notified the state superintendent of its intent to participate in the program  
8 under this section, and paid the nonrefundable fee set by the department as required  
9 under s. 119.23 (2) (a) 3., by February 1 of the previous school year. The notice shall  
10 specify the number of pupils participating in the program under this section for  
11 which the school has space.

12 SECTION 12. 118.60 (2) (a) 3. c. of the statutes is created to read:

13 118.60 (2) (a) 3. c. For a participating private school, or a private school that  
14 is a first-time participant in the program under this section, that intends to  
15 participate in the program under this section and to accept pupils who reside within  
16 a school district in the first school year in which that school district is identified as  
17 an eligible school district under sub. (1m) (b) 1., the private school notified the state  
18 superintendent of its intent to participate in the program under this section, and  
19 paid the nonrefundable fee set by the department as required under s. 119.23 (2) (a)  
20 3., by August 1 of the school year in which the private school intends to participate.

1 The notice shall specify the number of pupils participating in the program under this  
2 section for which the school has space.

3 **SECTION 13.** 118.60 (2) (a) 6. c. of the statutes is amended to read:

4 118.60 (2) (a) 6. c. Any teacher employed by the private school on July 1 of the  
5 first school year that begins after a school district is identified as an eligible school  
6 district under sub. (1m) (b) 1. and qualifies as an eligible school district under par.  
7 (bg), or is identified as an eligible school district under 2011 Wisconsin Act 32, section  
8 9137 (3u), who has been teaching for at least the 5 consecutive years immediately  
9 preceding that July 1, and who does not satisfy the requirements under subd. 6. a.  
10 on that July 1, applies to the department on a form prepared by the department for  
11 a temporary, nonrenewable waiver from the requirements under subd. 6. a. The  
12 department shall promulgate rules to implement this subd. 6. c., including the form  
13 of the application and the process by which the waiver application will be reviewed.  
14 The application form shall require the applicant to submit a plan for satisfying the  
15 requirements under subd. 6. a., including the name of the accredited institution of  
16 higher education at which the teacher is pursuing or will pursue the bachelor's  
17 degree and the anticipated date on which the teacher expects to complete the  
18 bachelor's degree. No waiver granted under this subd. 6. c. is valid after July 31 of  
19 the 5th school year that begins after a school district is both identified as an eligible  
20 school district under sub. (1m) (b) 1. and qualifies as an eligible school district under  
21 par. (bg) or is identified as an eligible school district under 2011 Wisconsin Act 32,  
22 section 9137 (3u).

23 **SECTION 14.** 118.60 (2) (a) 7. of the statutes is amended to read:

24 118.60 (2) (a) 7. For a private school that is a first-time participant in the  
25 program under this section, and that is not accredited by Wisconsin North Central

1 Association, Wisconsin Religious and Independent School Accreditation,  
2 Independent Schools Association of the Central States, Wisconsin Evangelical  
3 Lutheran Synod School Accreditation, National Lutheran School Accreditation, the  
4 diocese or archdiocese within which the private school is located, or by any other  
5 organization recognized by the National Council for Private Schools Accreditation,  
6 the private school obtains preaccreditation by the Institute for the Transformation  
7 of Learning at Marquette University, Wisconsin North Central Association,  
8 Wisconsin Religious and Independent Schools Accreditation, Independent Schools  
9 Association of the Central States, Wisconsin Evangelical Lutheran Synod School  
10 Accreditation, National Lutheran School Accreditation, or the diocese or archdiocese  
11 within which the private school is located by ~~September 1 before the first school term~~  
12 ~~of participation in the program under this section that begins after August 31, 2011;~~  
13 ~~by August 1~~ 15 before the first school term of participation in the program under this  
14 section that begins in the first school year that begins after a school district is  
15 identified as an eligible school district under sub. (1m);, or by May 1 if the private  
16 school begins participation in the program under this section during summer school.  
17 In any school year, a private school may apply for and seek to obtain preaccreditation  
18 from only one of the entities enumerated in this subdivision. A private school that  
19 fails to obtain ~~accreditation~~ preaccreditation in a school year may apply for and seek  
20 to obtain preaccreditation from one of the entities enumerated in this subdivision in  
21 the following school year. The private school shall achieve accreditation by  
22 Wisconsin North Central Association, Wisconsin Religious and Independent Schools  
23 Accreditation, Independent Schools Association of the Central States, Wisconsin  
24 Evangelical Lutheran Synod School Accreditation, National Lutheran School  
25 Accreditation, the diocese or archdiocese within which the private school is located,

1 or any other organization recognized by the National Council for Private School  
2 Accreditation, by December 31 of the 3rd school year following the first school year  
3 in which the private school begins participation in the program under this section.  
4 If the private school is accredited under this subdivision, the private school is not  
5 required to obtain preaccreditation as a prerequisite to providing instruction under  
6 this section in additional grades or in an additional or new school.

7 **SECTION 15.** 118.60 (2) (b) of the statutes is repealed.

\*\*\*\*NOTE: Because the cap for the Racine program only extends to the end of the  
2012-13 school year, I repeal the cap for the Racine program effective July 1, 2013. Okay?

8 **SECTION 16.** 118.60 (2) (bg) of the statutes is created to read:

9 118.60 (2) (bg) 1. No pupil who resides in a a school district identified as an  
10 eligible school district under sub. (1m) (b) 1. may attend a private school under this  
11 section until that school district qualifies as an eligible school district under this  
12 paragraph. A school district qualifies as an eligible school district under this  
13 paragraph if no later than August 15 immediately following the date on which the  
14 department identified the school district as an eligible school district under sub. (1m)  
15 (b) 1., at least 20 pupils who reside in the school district apply to attend a private  
16 school under this section and simultaneously notify the department that they have  
17 applied to attend a private school under this section. Pupils applying to attend a  
18 private school that is a first-time participant in the program under this section and  
19 that has not obtained preaccreditation as required under par. (a) 7. may not be  
20 counted towards the 20 pupils required for an eligible school district to qualify as an  
21 eligible school district under this section.

\*\*\*\*NOTE: Do you want to condition "qualifying" status on at least 20 pupils being  
accepted into a private school? Or on at least 20 pupils actually attending a private  
school? That is, what if just 20 pupils apply but only 4 are accepted? Or what if 20 pupils  
apply but only one elects to attend the private school? Will the school districts within  
which these pupils reside qualify as an eligible school district under this subdivision?

<sup>5</sup> ~~NOTE:~~ Please confirm that once an eligible school district has qualified under this paragraph, the school district remains qualified even if no pupils who reside in the school ~~and~~ <sup>and</sup> ~~attend~~ <sup>attend</sup> private schools under the program ~~is~~.

- 1 2. The department shall, no later than 5 days after receiving notice from private  
2 schools regarding acceptance of pupils as required under sub. (3) (a), determine  
3 whether any school district identified as an eligible school district under sub. (1m)  
4 (b) 1. qualifies as an eligible school district under this paragraph, and shall publish  
5 on the department's Internet site a list of any such qualifying eligible school districts.

6 **SECTION 17.** 118.60 (2) (br) of the statutes is created to read:

7 118.60 (2) (br) 1. In the 2013-14 school year, no more than a total of 500 pupils  
8 residing in school districts identified as eligible school districts under sub. (1m) (b)  
9 1. and qualifying as eligible school districts under par. (bg) may attend private  
10 schools under this section. In this paragraph, the number of pupils means the  
11 number of pupils as counted under s. 121.004 (7). Participating private schools shall  
12 give priority to pupils who were eligible for a free or reduced-price lunch in the  
13 federal school lunch program under 42 USC 1758 (b) in the immediately preceding  
14 school year.

15 2. In the 2014-15 school year, no more than a total of 1,000 pupils residing in  
16 school districts identified as eligible school districts under sub. (1m) (b) 1. and  
17 qualifying as eligible school districts under par. (bg) may attend private schools  
18 under this section. Participating private schools shall give priority to pupils who  
19 attended a private school under subd. 1.

20 3. Whenever the state superintendent determines that the limit is reached  
21 under subd. 1. or 2., he or she shall issue an order prohibiting the participating  
22 private schools from accepting additional pupils from school districts identified as  
23 eligible school districts under sub. (1m) (b) 1. and qualifying as eligible school  
24 districts under par. (bg) until he or she determines that the number of pupils  
25 attending private schools under this section from those school districts has fallen

30 <sup>90</sup> A school district that qualifies under this <sup>paragraph</sup> ~~section~~ shall remain qualified under this paragraph.

as an eligible school district ~~under this paragraph~~

1 below the limit. If the number of pupils attending private schools under this section  
2 falls below the limit under this paragraph, the state superintendent shall issue an  
3 order notifying participating private schools that they may begin accepting  
4 additional pupils from those school districts, and, notwithstanding sub. (3) (a),  
5 participating private schools that wish to accept additional pupils under this section  
6 shall accept pupils as follows:

7 a. The private school shall give first priority to pupils in a school district  
8 identified as an eligible school district under sub. (1m) (b) 1. and qualifying as an  
9 eligible school district under sub. (2) (bg) who are attending a private school under  
10 this section.

11 b. The private school shall give 2nd priority to the siblings of pupils who are  
12 attending a private school under this section from that school district.

13 c. The private school shall give 3rd priority to pupils selected at random under  
14 a procedure established by the department by rule.

15 **SECTION 18.** 118.60 (3) (a) of the statutes is amended to read:

16 118.60 (3) (a) The pupil or the pupil's parent or guardian shall submit an  
17 application, on a form provided by the state superintendent, to the participating  
18 private school that the pupil wishes to attend. If more than one pupil from the same  
19 family applies to attend the same private school, the pupils may use a single  
20 application. Within 60 days after receiving the application, the private school shall  
21 notify each applicant, in writing, whether his or her application has been accepted,  
22 except that in the first school year in which a school district is identified as an eligible  
23 school district under sub. (1m) (b) 1., a private school that has notified the  
24 department of its intent to participate in the program under this section as required  
25 under sub. (2) (a) 3. c. shall notify each applicant, in writing, whether his or her



1 application has been accepted within 7 days after receiving the application, and shall  
2 simultaneously notify the department whether the pupil has been accepted. If the  
3 private school rejects an application, the notice shall include the reason. A private  
4 school may reject an applicant only if it has reached its maximum general capacity  
5 or seating capacity. The state superintendent shall ensure that the private school  
6 determines which pupils to accept on a random basis, except that the private school  
7 may give preference in accepting applications to siblings of pupils accepted on a  
8 random basis.

9 **SECTION 19.** 121.08 (4) (br) of the statutes is amended to read:

10 121.08 (4) (br) The amount of state aid that an eligible school district is eligible  
11 to be paid from the appropriation under s. 20.255 (2) (ac) shall also be reduced by the  
12 amount calculated by multiplying the amounts paid under s. 118.60 (4) and (4m) in  
13 the first school year that begins after a school district is identified as an eligible  
14 school district under s. 118.60 (1m) (b) 1. and qualifies as an eligible school district  
15 under s. 118.60 (2) (bg) or 2011 Wisconsin Act 32, section 9137 (3u), and in each school  
16 year thereafter by 38.4 percent.

17 (END)

*I note*

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1026/P3dn  
TKK:eev:jf

*— date —*

Sara:

*ed*

x I amend<sup>ed</sup> the title of the appropriations governing the parental choice program for eligible school districts, and the title of s. 118.60 itself, because repeated reference is made throughout the statutes (and, in particular s. 118.60) to “the program under [s. 118.60 or] this section.” I also believe it is accurate to say that this is a single program in which multiple school districts may participate. Okay? ✓

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**2013-2014 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1026/P3ins  
TKK:eef:jf

**INSERT 2-1**

**SECTION 1.** 20.255 (1) (j) of the statutes is amended to read:

20.255 (1) (j) *Milwaukee Parental Choice Program and the parental choice programs in other program for eligible school districts; financial audits.* All moneys received under ss. 118.60 (2) (a) 3. and 119.23 (2) (a) 3. to be used to evaluate the financial information submitted under s. 119.23 (7) (am) and (d) 2. and 3. by private schools participating in the Milwaukee Parental Choice Program and under s. 118.60 (7) (am) and (d) 2. and 3. by private schools participating in the choice program under s. 118.60.

\*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

**History:** 1971 c. 42, 56, 125; 1971 c. 152 s. 38; 1971 c. 154 s. 80; 1971 c. 211 ss. 24, 126; 1971 c. 215; 1973 c. 89 s. 20 (2); 1973 c. 90, 190, 243, 300, 307, 333, 336; 1975 c. 39 ss. 97 to 109, 732 (1); 1975 c. 105, 220, 224, 395; 1977 c. 26 s. 75; 1977 c. 29; 1977 c. 83 s. 26; 1977 c. 418 ss. 88m to 90, 929 (55); 1979 c. 34 ss. 164 to 191, 2102 (43) (a); 1979 c. 221 ss. 96e to 97w, 2200 (43); 1979 c. 331; 1979 c. 346 ss. 9, 15; 1981 c. 20, 86, 169; 1981 c. 314 s. 146; 1983 a. 22 s. 6; 1983 a. 27 ss. 158 to 212, 2200 (42), 2202 (42); 1983 a. 192; 1983 a. 333 s. 6; 1983 a. 370; 1985 a. 29, 56, 75, 120; 1987 a. 27, 339, 399; 1989 a. 31, 56, 114, 122, 269, 299, 309, 336, 359; 1991 a. 32, 39, 196, 269; 1993 a. 16, 168, 367, 377, 437, 454, 458, 490, 491; 1995 a. 27 ss. 563, 567 to 599, 622, 623, 9145 (1); 1995 a. 49, 227; 1997 a. 27, 113, 164, 237, 252; 1999 a. 9, 185; 2001 a. 16, 57, 105, 109; 2003 a. 33; 2005 a. 25, 43; 2007 a. 20; 2009 a. 11, 28, 58, 329; 2011 a. 32, 76, 157, 158, 166; s. 13.92 (1) (bm) 2.

**SECTION 2.** 20.255 (2) (fv) of the statutes is amended to read:

20.255 (2) (fv) *Milwaukee Parental Choice Program and the parental choice programs in other program for eligible school districts; transfer pupils.* A sum sufficient to make the payments under ss. 118.60 (4r) and 119.23 (4r).

\*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

**History:** 1971 c. 42, 56, 125; 1971 c. 152 s. 38; 1971 c. 154 s. 80; 1971 c. 211 ss. 24, 126; 1971 c. 215; 1973 c. 89 s. 20 (2); 1973 c. 90, 190, 243, 300, 307, 333, 336; 1975 c. 39 ss. 97 to 109, 732 (1); 1975 c. 105, 220, 224, 395; 1977 c. 26 s. 75; 1977 c. 29; 1977 c. 83 s. 26; 1977 c. 418 ss. 88m to 90, 929 (55); 1979 c. 34 ss. 164 to 191, 2102 (43) (a); 1979 c. 221 ss. 96e to 97w, 2200 (43); 1979 c. 331; 1979 c. 346 ss. 9, 15; 1981 c. 20, 86, 169; 1981 c. 314 s. 146; 1983 a. 22 s. 6; 1983 a. 27 ss. 158 to 212, 2200 (42), 2202 (42); 1983 a. 192; 1983 a. 333 s. 6; 1983 a. 370; 1985 a. 29, 56, 75, 120; 1987 a. 27, 339, 399; 1989 a. 31, 56, 114, 122, 269, 299, 309, 336, 359; 1991 a. 32, 39, 196, 269; 1993 a. 16, 168, 367, 377, 437, 454, 458, 490, 491; 1995 a. 27 ss. 563, 567 to 599, 622, 623, 9145 (1); 1995 a. 49, 227; 1997 a. 27, 113, 164, 237, 252; 1999 a. 9, 185; 2001 a. 16, 57, 105, 109; 2003 a. 33; 2005 a. 25, 43; 2007 a. 20; 2009 a. 11, 28, 58, 329; 2011 a. 32, 76, 157, 158, 166; s. 13.92 (1) (bm) 2.

**SECTION 3.** 118.60 (title) of the statutes is amended to read:

**118.60 (title) Parental choice programs program for eligible school districts.**

**History:** 2011 a. 32, 47, 215; s. 35.17 correction in (4) (d) (intro.).

**History:** s section. The department may not by rule establish standards under sub. (7) (am) that exceed the standards established by the American Institute of Certified Public Accountants.

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1026/P4dn

TKK:eev:rs

February 10, 2013

Sara:

I amended the title of the appropriations governing the parental choice program for eligible school districts, and the title of s. 118.60 itself, because repeated reference is made throughout the statutes (and, in particular s. 118.60) to "the program under [s. 118.60 or] this section." I also believe it is accurate to say that this is a single program in which multiple school districts may participate. Okay?

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State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-1026/P4 P5

TKK:eev&kjfrs

Stays Rm-r R

DOA:.....Hynek, BB0324 – New Parental Choice Program

**FOR 2013-2015 BUDGET -- NOT READY FOR INTRODUCTION**

2/11/13

1 AN ACT <sup>don't gen</sup>; relating to: the budget.

*Analysis by the Legislative Reference Bureau*

**EDUCATION**

**PRIMARY AND SECONDARY EDUCATION**

Under current law, a pupil living in the city of Milwaukee or an eligible school district (currently, only the Racine Unified School District) may, under a parental choice program, attend a private school at state expense if, among other conditions, the pupil is a member of a family that has a total family income that does not exceed 300 percent of the poverty level.

This bill expands the parental choice program for eligible school districts by making eligible a school district having at least 4,000 pupils and in which two or more schools in the district have been placed in a performance category of “fails to meet expectations” or “meets few expectations,” or the equivalent lowest performance categories (qualifying categories), on an accountability report published by DPI. If, after a school district has been identified as an eligible school district, at least 20 pupils who reside in the school district apply to attend private schools under the parental choice program, the eligible school district becomes a qualifying eligible school district. The bill provides that only after an eligible school district becomes a qualifying eligible school district may pupils who reside in that school district attend a private school under the parental choice program. The bill does not, however, require a pupil who applies to attend a participating private school to be enrolled in a school that was placed in a qualifying category.

If, at the time at which any subsequent accountability report is published for schools in the district, no school or only one school in the district was placed in a qualifying category and the school district did not become a qualifying eligible school district, the school district ceases to be an eligible school district. However, a school district that has ceased to be an eligible school district may become an eligible school district in a subsequent school year.

Within ten days after publishing accountability reports, DPI must publish a list of eligible school districts on its Internet site, and must provide a written notice to the clerk of each eligible school district. A private school must notify DPI by August 1 immediately following the issuance of the accountability reports of its intent to participate in the choice program in a newly eligible school district in that school year. In the 2013–14 school year, participation in the expanded choice program is limited to no more than 500 pupils residing in eligible school districts. In the 2014–15 school year, participation is capped at no more than 1,000 pupils.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 20.255 (1) (j) of the statutes is amended to read:

2           20.255 (1) (j) *Milwaukee Parental Choice Program and the parental choice*  
3 *~~programs in other~~ program for eligible school districts; financial audits.* All moneys  
4 received under ss. 118.60 (2) (a) 3. and 119.23 (2) (a) 3. to be used to evaluate the  
5 financial information submitted under s. 119.23 (7) (am) and (d) 2. and 3. by private  
6 schools participating in the Milwaukee Parental Choice Program and under s. 118.60  
7 (7) (am) and (d) 2. and 3. by private schools participating in the choice program under  
8 s. 118.60.

      \*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

9           **SECTION 2.** 20.255 (2) (fv) of the statutes is amended to read:

10          20.255 (2) (fv) *Milwaukee Parental Choice Program and the parental choice*  
11 *~~programs in other~~ program for eligible school districts; transfer pupils.* A sum  
12 sufficient to make the payments under ss. 118.60 (4r) and 119.23 (4r).

\*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

1           **SECTION 3.** 118.60 (title) of the statutes is amended to read:

2           **118.60 (title) Parental choice programs program for eligible school**  
3           **districts.**

4           **SECTION 4.** 118.60 (1) (am) (intro.) of the statutes is amended to read:

5           118.60 (1) (am) (intro.) “Eligible school district” means a school district that,  
6           subject to sub. (1m), satisfies all any of the following:

7           **SECTION 5.** 118.60 (1) (am) 1. of the statutes is renumbered 118.60 (1) (am) 1g.

8           a.

9           **SECTION 6.** 118.60 (1) (am) 1g. (intro.) of the statutes is created to read:

10           118.60 (1) (am) 1g. (intro.) Subject to sub. (1m) (a), the school district satisfies  
11           all of the following:

12           **SECTION 7.** 118.60 (1) (am) 1r. of the statutes is created to read:

13           118.60 (1) (am) 1r. The school district satisfies all of the following:

14           a. The number of pupils enrolled in the school district equals or exceeds 4,000.

15           In this subd. 1r. a., the number of pupils means the number of pupils as counted  
16           under s. 121.004 (7).

17           b. Subject to sub. (1m) (b) 2., 2 or more public schools in the school district were  
18           placed in the same school year in a performance category of either “fails to meet  
19           expectations” or “meets few expectations,” or the equivalent lowest performance  
20           categories, on an accountability report issued by the department under s. 115.385 (1).

21           **SECTION 8.** 118.60 (1) (am) 2. of the statutes is renumbered 118.60 (1) (am) 1g.

22           b.

**SECTION 9**

**SECTION 9.** 118.60 (1) (am) 3. of the statutes is renumbered 118.60 (1) (am) 1g.

c.

**SECTION 10.** 118.60 (1) (am) 4. of the statutes is renumbered 118.60 (1) (am) 1g.

d.

**SECTION 11.** 118.60 (1m) of the statutes is renumbered 118.60 (1m) (a) and amended to read:

118.60 (1m) (a) By For an eligible school district under sub. (1) (am) 1g., by November 15 of the 2nd fiscal year of each fiscal biennium, the department shall prepare a list that identifies eligible school districts. The department shall post the list on the department's Internet site and shall notify in writing the school district clerk of each eligible school district. A school district that has qualified as an eligible school district under ~~this section~~ sub. (1) (am) 1g. on April 20, 2012, shall remain an eligible school district, but no school district may qualify as an eligible school district under sub. (1) (am) 1g. after April 20, 2012.

**SECTION 12.** 118.60 (1m) (b) of the statutes is created to read:

118.60 (1m) (b) 1. Subject to subd. 2., for an eligible school district under sub. (1) (am) 1r., within 10 days after the department publishes, for at least 2 schools in a school district, accountability reports under s. 115.385 (1) that place the schools in a performance category of "fails to meet expectations" or "meets few expectations," or the equivalent lowest performance categories, the department shall publish a notice on the department's Internet site that identifies that school district as an eligible school district for the immediately following school year, and shall notify in writing the school district clerk of the eligible school district.

2. A school district identified as an eligible school district under subd. 1. ceases to be an eligible school district if, at the time at which any subsequent accountability



1 reports are published by the department under s. 115.385 (1), no school or only one  
2 school in the school district is placed in a performance category of "fails to meet  
3 expectations" or "meets few expectations," or the equivalent lowest performance  
4 categories, and the school district did not qualify as an eligible school district, as  
5 required under sub. (2) (bg), in the last school year in which the school district  
6 satisfied the requirements under subd. 1. The department shall, within 10 days after  
7 the department publishes the subsequent accountability reports, remove from the  
8 list of eligible school districts on the department's Internet site any <sup>such</sup> school district  
9 that no longer satisfies the requirement under sub. (1) (am) 1r. b. if no pupil who  
10 resides in the school district is attending a participating private school under this  
11 section. The department shall notify in writing the school district clerk of the change  
12 in eligibility status. This subdivision does not preclude a school district from  
13 becoming an eligible school district under sub. (1) (am) 1r. in a subsequent school  
14 year.

6 \*\*\*\*NOTE: Please review this new language governing eligibility. Does it  
accomplish your intent?

15 **SECTION 13.** 118.60 (2) (a) (intro.) of the statutes is amended to read:

16 118.60 (2) (a) (intro.) Subject to ~~par. (b)~~ pars. (bg) and (br), any pupil in grades  
17 kindergarten to 12 who resides within an eligible school district may attend any  
18 private school if all of the following apply:

19 **SECTION 14.** 118.60 (2) (a) 3. a. of the statutes is amended to read:

20 118.60 (2) (a) 3. a. Except as provided in ~~subd.~~ subds. 3. b. and 3. c., the private  
21 school notified the state superintendent of its intent to participate in the program  
22 under this section, and paid the nonrefundable fee set by the department as required  
23 under s. 119.23 (2) (a) 3., by February 1 of the previous school year. The notice shall

1 specify the number of pupils participating in the program under this section for  
2 which the school has space.

3 **SECTION 15.** 118.60 (2) (a) 3. c. of the statutes is created to read:

4 118.60 (2) (a) 3. c. For a participating private school, or a private school that  
5 is a first-time participant in the program under this section, that intends to  
6 participate in the program under this section and to accept pupils who reside within  
7 a school district in the first school year in which that school district is identified as  
8 an eligible school district under sub. (1m) (b) 1., the private school notified the state  
9 superintendent of its intent to participate in the program under this section, and  
10 paid the nonrefundable fee set by the department as required under s. 119.23 (2) (a)  
11 3., by August 1 of the school year in which the private school intends to participate.  
12 The notice shall specify the number of pupils participating in the program under this  
13 section for which the school has space.

14 **SECTION 16.** 118.60 (2) (a) 6. c. of the statutes is amended to read:

15 118.60 (2) (a) 6. c. Any teacher employed by the private school on July 1 of the  
16 first school year that begins after a school district is identified as an eligible school  
17 district under sub. (1m) (b) 1. and qualifies as an eligible school district under par.  
18 (bg), or is identified as an eligible school district under 2011 Wisconsin Act 32, section  
19 9137 (3u), who has been teaching for at least the 5 consecutive years immediately  
20 preceding that July 1, and who does not satisfy the requirements under subd. 6. a.  
21 on that July 1, applies to the department on a form prepared by the department for  
22 a temporary, nonrenewable waiver from the requirements under subd. 6. a. The  
23 department shall promulgate rules to implement this subd. 6. c., including the form  
24 of the application and the process by which the waiver application will be reviewed.  
25 The application form shall require the applicant to submit a plan for satisfying the

1 requirements under subd. 6. a., including the name of the accredited institution of  
2 higher education at which the teacher is pursuing or will pursue the bachelor's  
3 degree and the anticipated date on which the teacher expects to complete the  
4 bachelor's degree. No waiver granted under this subd. 6. c. is valid after July 31 of  
5 the 5th school year that begins after a school district is both identified as an eligible  
6 school district under sub. (1m) (b) 1. and qualifies as an eligible school district under  
7 par. (bg) or is identified as an eligible school district under 2011 Wisconsin Act 32,  
8 section 9137 (3u).

9 **SECTION 17.** 118.60 (2) (a) 7. of the statutes is amended to read:

10 118.60 (2) (a) 7. For a private school that is a first-time participant in the  
11 program under this section, and that is not accredited by Wisconsin North Central  
12 Association, Wisconsin Religious and Independent School Accreditation,  
13 Independent Schools Association of the Central States, Wisconsin Evangelical  
14 Lutheran Synod School Accreditation, National Lutheran School Accreditation, the  
15 diocese or archdiocese within which the private school is located, or by any other  
16 organization recognized by the National Council for Private Schools Accreditation,  
17 the private school obtains preaccreditation by the Institute for the Transformation  
18 of Learning at Marquette University, Wisconsin North Central Association,  
19 Wisconsin Religious and Independent Schools Accreditation, Independent Schools  
20 Association of the Central States, Wisconsin Evangelical Lutheran Synod School  
21 Accreditation, National Lutheran School Accreditation, or the diocese or archdiocese  
22 within which the private school is located by ~~September 1 before the first school term~~  
23 ~~of participation in the program under this section that begins after August 31, 2011;~~  
24 ~~by August 1~~ 15 before the first school term of participation in the program under this  
25 section that begins in the first school year that begins after a school district is

1 identified as an eligible school district under sub. (1m);, or by May 1 if the private  
2 school begins participation in the program under this section during summer school.  
3 In any school year, a private school may apply for and seek to obtain preaccreditation  
4 from only one of the entities enumerated in this subdivision. A private school that  
5 fails to obtain ~~accreditation~~ preaccreditation in a school year may apply for and seek  
6 to obtain preaccreditation from one of the entities enumerated in this subdivision in  
7 the following school year. The private school shall achieve accreditation by  
8 Wisconsin North Central Association, Wisconsin Religious and Independent Schools  
9 Accreditation, Independent Schools Association of the Central States, Wisconsin  
10 Evangelical Lutheran Synod School Accreditation, National Lutheran School  
11 Accreditation, the diocese or archdiocese within which the private school is located,  
12 or any other organization recognized by the National Council for Private School  
13 Accreditation, by December 31 of the 3rd school year following the first school year  
14 in which the private school begins participation in the program under this section.  
15 If the private school is accredited under this subdivision, the private school is not  
16 required to obtain preaccreditation as a prerequisite to providing instruction under  
17 this section in additional grades or in an additional or new school.

18 **SECTION 18.** 118.60 (2) (b) of the statutes is repealed.

19 **SECTION 19.** 118.60 (2) (bg) of the statutes is created to read:

20 118.60 (2) (bg) 1. No pupil who resides in a a school district identified as an  
21 eligible school district under sub. (1m) (b) 1. may attend a private school under this  
22 section until that school district qualifies as an eligible school district under this  
23 paragraph. A school district qualifies as an eligible school district under this  
24 paragraph if no later than August 15 immediately following the date on which the  
25 department identified the school district as an eligible school district under sub. (1m)

(b) 1., at least 20 pupils who reside in the school district apply to attend a private school under this section and simultaneously notify the department that they have applied to attend a private school under this section. Pupils applying to attend a private school that is a first-time participant in the program under this section and that has not obtained preaccreditation as required under par. (a) 7. may not be counted towards the 20 pupils required for an eligible school district to qualify as an eligible school district under this section.

2. The department shall, no later than 5 days after receiving notice from private schools regarding acceptance of pupils as required under sub. (3) (a), determine whether any school district identified as an eligible school district under sub. (1m) (b) 1. qualifies as an eligible school district under this paragraph, and shall publish on the department's Internet site a list of any such qualifying eligible school districts.

3. A school district that qualifies as an eligible school district under this paragraph shall remain qualified under this paragraph.

\*\*\*\*NOTE: Please confirm that, once an eligible school district has qualified under this paragraph, the school district remains qualified, even if no pupils who reside in the school district actually attend private schools under the program.

**SECTION 20.** 118.60 (2) (br) of the statutes is created to read:

118.60 (2) (br) 1. In the 2013–14 school year, no more than a total of 500 pupils residing in school districts identified as eligible school districts under sub. (1m) (b) 1. and qualifying as eligible school districts under par. (bg) may attend private schools under this section. In this paragraph, the number of pupils means the number of pupils as counted under s. 121.004 (7). Participating private schools shall give priority to pupils who were eligible for a free or reduced-price lunch in the federal school lunch program under 42 USC 1758 (b) in the immediately preceding school year.

1           2. In the 2014–15 school year, no more than a total of 1,000 pupils residing in  
2 school districts identified as eligible school districts under sub. (1m) (b) 1. and  
3 qualifying as eligible school districts under par. (bg) may attend private schools  
4 under this section. Participating private schools shall give priority to pupils who  
5 attended a private school under subd. 1.

6           3. Whenever the state superintendent determines that the limit is reached  
7 under subd. 1. or 2., he or she shall issue an order prohibiting the participating  
8 private schools from accepting additional pupils from school districts identified as  
9 eligible school districts under sub. (1m) (b) 1. and qualifying as eligible school  
10 districts under par. (bg) until he or she determines that the number of pupils  
11 attending private schools under this section from those school districts has fallen  
12 below the limit. If the number of pupils attending private schools under this section  
13 falls below the limit under this paragraph, the state superintendent shall issue an  
14 order notifying participating private schools that they may begin accepting  
15 additional pupils from those school districts, and, notwithstanding sub. (3) (a),  
16 participating private schools that wish to accept additional pupils under this section  
17 shall accept pupils as follows:

18           a. The private school shall give first priority to pupils in a school district  
19 identified as an eligible school district under sub. (1m) (b) 1. and qualifying as an  
20 eligible school district under sub. (2) (bg) who are attending a private school under  
21 this section.

22           b. The private school shall give 2nd priority to the siblings of pupils who are  
23 attending a private school under this section from that school district.

24           c. The private school shall give 3rd priority to pupils selected at random under  
25 a procedure established by the department by rule.

1           **SECTION 21.** 118.60 (3) (a) of the statutes is amended to read:

2           118.60 (3) (a) The pupil or the pupil's parent or guardian shall submit an  
3           application, on a form provided by the state superintendent, to the participating  
4           private school that the pupil wishes to attend. If more than one pupil from the same  
5           family applies to attend the same private school, the pupils may use a single  
6           application. Within 60 days after receiving the application, the private school shall  
7           notify each applicant, in writing, whether his or her application has been accepted,  
8           except that in the first school year in which a school district is identified as an eligible  
9           school district under sub. (1m) (b) 1., a private school that has notified the  
10          department of its intent to participate in the program under this section as required  
11          under sub. (2) (a) 3. c. shall notify each applicant, in writing, whether his or her  
12          application has been accepted within 7 days after receiving the application, and shall  
13          simultaneously notify the department whether the pupil has been accepted. If the  
14          private school rejects an application, the notice shall include the reason. A private  
15          school may reject an applicant only if it has reached its maximum general capacity  
16          or seating capacity. The state superintendent shall ensure that the private school  
17          determines which pupils to accept on a random basis, except that the private school  
18          may give preference in accepting applications to siblings of pupils accepted on a  
19          random basis.

20          **SECTION 22.** 121.08 (4) (br) of the statutes is amended to read:

21          121.08 (4) (br) The amount of state aid that an eligible school district is eligible  
22          to be paid from the appropriation under s. 20.255 (2) (ac) shall also be reduced by the  
23          amount calculated by multiplying the amounts paid under s. 118.60 (4) and (4m) in  
24          the first school year that begins after a school district is identified as an eligible  
25          school district under s. 118.60 (1m) (b) 1. and qualifies as an eligible school district

1     under s. 118.60 (2) (bg) or 2011 Wisconsin Act 32, section 9137 (3u), and in each school  
2     year thereafter by 38.4 percent.

3 (END)